



05 SEP 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Donald R. Fraser
Fraser Martin & Miller LLC
28366 Kensington Lane
Perrysburg, OH 43551-4163

In re Application of :
REMFERT, Hans Ulrich :
U.S. Application No.: 10/585,671 :
PCT No.: PCT/EP05/03180 :
Int. Filing Date: 24 March 2005 :
Priority Date: 24 March 2004 :
Attorney Docket No.: 1-38343 :
For: GAME FIGURE AND COLLECTOR'S :
ITEM :

09/06/2006 SEASHIR 00000001 503156 10585671
DECISION ON PETITION DA 130.00 OP
05 OCT 2006 200.00 DA
03 OCT 2006 100.00 DA

This decision is issued in response to applicants' facsimile communication which is being treated as an assertion of entitlement to small entity status and request for refund filed on 18 August 2006.

BACKGROUND

On 07 July 2006, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by the basic national fee; a copy of the international application; an oath/declaration of inventors; and an application data sheet.

On 18 August 2006, applicants filed the present request for refund and assertion of entitlement to small entity status.

DISCUSSION

37 CFR 1.28(a) provides:

A refund pursuant to §1.26, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if an assertion under § 1.27(c) and a request for a refund of the excess amount are filed within three months of the date of the timely payment of the full fee. The three-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within three months of the date of payment of, the full fee.

In the present case, the 18 August 2006 request for a refund of a portion of the fees paid upon filing the present application based upon the subsequent establishment of small entity status was made within three months of the payment of the large entity fees on 07 July 2006. Accordingly, petitioner is entitled to a refund of a portion of the large entity fees paid upon filing the present application.

CONCLUSION

The request for refund under 37 CFR 1.28(a) is **GRANTED**.

Deposit Account no. 50-3156 will be refunded 450.00.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision.



Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459